



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,749	09/08/2003	Mario Spatafora	U 014802-8	1143

140 7590 11/30/2006

LADAS & PARRY  
26 WEST 61ST STREET  
NEW YORK, NY 10023

EXAMINER
----------

HARMON, CHRISTOPHER R

ART UNIT	PAPER NUMBER
----------	--------------

3721

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/657,749

Applicant(s)

SPATAFORA, MARIO

Examiner

Christopher R. Harmon

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3-10 and 13-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation "said locating member is located downstream from the gripping means" (claim 3 and 13, lines 1-2) is confusing and indefinite. The locating member is "of said pocket" (claim 1) and the gripping means functions to grip, release, and re-grip an article. Therefore, because the locating member is present during the release and re-gripping steps, there is confusion as to the "downstream" location.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3-4, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Cimperman et al. (US 5,577,439).

Cimperman et al. disclose a method of conveying articles comprising feeding articles to pocket conveyor 12 travelling along a path and guide 120; retaining article by

Art Unit: 3721

gripping means 30, 31 along the path (figure 1); releasing article from the gripping means by forced reciprocal movement by cam structure 36 (figure 12); applying pushing force to articles in the pockets by pushing member 131 against locating members 30F and 31F; (figures 2-3, column 6, lines 8+).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3-6, 11-17, 20-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Manservigi et al. (US 5,822,948) in view of Mosse et al. (US 5,155,968).

Manservigi et al. disclose a method of conveying articles comprising feeding articles to pocket conveyor 2; retaining article by gripping means 58 associated with pocket 2; feeding article along path p1 while gripping; releasing article from gripping means 58; transferring article against locating member 13 of pocket 2; and retaining article again by gripping means 58 after advancement; see figures 1-8.

Manservigi et al. do not directly disclose applying a pushing force, however it is common in the art for compressed air to assist in transferring articles from vacuum gripping devices as is taught by Mosse et al. in a vacuum gripping device to a pocket conveyor; see column 6, lines 50+.

Therefore it would have been obvious to one of ordinary skill in the art to apply a pushing force (compressed air) against the article in the invention to Manservigi et al. to reliably transfer the device to the locating member 13 of the opposite pocket 2.

Regarding claims 5-6, pocket 3 acts as a folding device effectively folding multiple components of the wrapping sheet comprising panels.

Regarding claim 12, pockets 3 are construed as rotating folding devices rotating on axis 49 (perpendicular direction) to effectively wrap the sheet 36 by cooperating with gripping means 58 and guide 3.

Regarding claims 11 and 20, folding device 42 guide 46 is located along the path comprising a face (facing the drum conveyor) with first and second grooves 3 extending parallel to the path for folding panels and locating member 13; see figures 1, 2, and 8.

Regarding claim 23, Manservigi et al. while providing for multiple folding devices/elements for folding the blank do not directly disclose plural folding devices located between the drum conveyor 45 and guide 46. However note that it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to construct folding device 42 into more than one element and provide a folding step by the folding devices.

7. Claims 7-10 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manservigi et al. (US 5,822,948) in view of Mosse et al. (US 5,155,968) and further view of Draghetti et al. (US 6,516,589).

Manservigi et al. do not directly disclose folding flaps and tabs in crease lines parallel to the direction of path p1, however Draghetti discloses forming crease lines in a parallel direction to the path in order to fold end tabs and flaps by folding devices 60; see figure 2. It would have been obvious to one of ordinary skill in the art to include the folding devices of Draghetti in the modified invention to Manservigi et al. to complete the end folding operation (figure 6a of Manservigi et al. show a tube wrap).

### ***Response to Arguments***

8. Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection. Regarding the locating member 13, the transfer takes place in an above/below configuration the sidewall of the article in contact with member 13 and therefore is considered pushed "against" the member 13.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not


Art Unit: 3721

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Harmon whose telephone number is (571) 272-4461. The examiner can normally be reached on Monday-Friday from 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Chris Harmon  
Patent Examiner